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STECKLOW & THOMPSON

217 CENTRE ST. FL. 6  
NEW YORK, NY 10013  
T(212) 566-8000  
F(212) 202-4952  
[INFO@SCTLAW.NYC](mailto:INFO@SCTLAW.NYC)  
April 22, 2016

Hon. Gregory H. Woods  
United States District Judge  
Southern District of New York  
500 Pearl Street  
New York, NY 10007

**Re: Gersbacher v. The City of New York et al., 14CV7600 (GHW)(KNF)**

Dear Honorable Judge Woods:

Please recall that my office, along with the Law Office of Samuel B. Cohen, represent the Plaintiff in this case. We submit the instant letter to update the court on discovery prior to the current end of discovery date, April 26, 2016. This is a joint letter requesting that discovery not close on April 26, 2016, but that discovery be extended to track the open depositions and the discovery dispute being submitted to the court in the next few business days. Prior to April 26, 2016, the parties will have completed six (6) depositions in the past three weeks including two (2) today. There is a joint discovery dispute letter that is in process of being agreed upon and should be docketed Monday or Tuesday next week. Rather than wait for that letter to update the Court, the parties are jointly submitting this letter.

While fact discovery is currently scheduled to end April 26, 2016, there is a pending (and not yet fully briefed) a motion concerning the attorney client privilege between Defendant Winski and Defendant Albano. The Court has already held open discovery for the continued deposition of Defendant Winski and the full deposition of Defendant Albano, to be scheduled once the motion is fully briefed and the Court issues a decision on this issue. Yesterday, during the deposition of the Arresting Officer Defendant Alan Gonzalez, testimony revealed conversations that occurred between this individual and Defendant Albano that may be relevant to the specific charges and allegations presented by the NYPD to the District Attorney's Office concerning Mr. Gersbacher. Plaintiff believes the deposition of Defendant Albano should cover the scope of all communications this defendant had with NYPD members concerning the enforcement action that led to Mr. Gersbacher's arrest, the charges brought against him and any communications related to the superseding complaint filed against Mr. Gersbacher.

It is defendants' position that Lieutenant Albano is an agency attorney with the NYPD Legal Bureau, and as such, defendants believe that legal advice he provided to members of the NYPD in connection with the circumstances surrounding Plaintiff's arrest constitutes confidential communications protected under the attorney-client privilege.

Once the joint discovery letter is submitted and resolved, and the outstanding briefs are submitted and decided, the parties will be in a better position to identify exactly how much time will be needed to complete discovery. By this joint correspondence we are seeking to update the court on discovery prior to the current closing date of discovery.

Respectfully Submitted,

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Wylie M. Stecklow